

AMENDED IN SENATE JUNE 16, 2010

AMENDED IN SENATE JUNE 7, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2009**

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**Introduced by Assembly Member Logue**

February 17, 2010

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An act to amend Section 76104.6 of the Government Code, relating to county penalties.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2009, as amended, Logue. County penalties: funding for DNA analysis: expedited processing.

Existing law, the DNA Fingerprint, Unresolved Crime and Innocence Act, an initiative measure, creates in the State Treasury the state's DNA Identification Fund, and makes its revenue, upon appropriation by the Legislature, available to the Attorney General solely to support DNA testing and to offset the impacts of increased testing. That act also provides for an increase in criminal penalties allocated to state and local government to fund the expansion of DNA collection as required by the act. Existing law allocates 70% of the funds, attributable to that increase in fees, to the state within the first 2 years following the approval of the act; 50% of the funds, attributable to the increase in the fees, to the state in the 3rd year; and thereafter, 25% of the funds, attributable to the increase in the fees, to the state, with the remaining funds allocated to local governments. Existing law provides that any funds remaining in a county's share of the increase in fees may be used for specified purposes, including expenditures made in connection with the processing, analysis, tracking, and storage of DNA crime scene

samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene for use.

This bill would specifically provide that a county's remaining share of funds attributable to the increase in fees as required by the act may, *if authorized by a resolution of the board of supervisors*, be used by a local sheriff, police, district attorney, or regional state crime laboratory for expenditures and administrative costs made or incurred for utilizing an authorized laboratory for the processing and analysis of forensic identification samples and testimony related to that analysis in order to expedite the analysis of crime scene samples in order to expedite and proceed with a pending criminal action or investigation within that county.

The DNA Fingerprint, Unresolved Crime and Innocence Act specifies that its provisions may be amended by the Legislature if the amendment furthers the act and is consistent with the purpose of the act to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and for exonerating the innocent.

This bill also contains the Legislature's finding that this bill furthers, and is consistent with, the purpose of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and for exonerating the innocent by accelerating the testing of DNA samples that cannot be handled in an expeditious manner without the use of an outside laboratory.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 76104.6 of the Government Code is
- 2 amended to read:
- 3 76104.6. (a) (1) Except as otherwise provided in this section,
- 4 for the purpose of implementing the DNA Fingerprint, Unsolved
- 5 Crime and Innocence Protection Act, there shall be levied an
- 6 additional penalty of one dollar (\$1) for every ten dollars (\$10),
- 7 or part of ten dollars (\$10), in each county upon every fine, penalty,
- 8 or forfeiture imposed and collected by the courts for all criminal

1 offenses, including all offenses involving a violation of the Vehicle  
2 Code or any local ordinance adopted pursuant to the Vehicle Code.

3 (2) The penalty imposed by this section shall be collected  
4 together with and in the same manner as the amounts established  
5 by Section 1464 of the Penal Code. These moneys shall be taken  
6 from fines and forfeitures deposited with the county treasurer prior  
7 to any division pursuant to Section 1463 of the Penal Code. The  
8 board of supervisors shall establish in the county treasury a DNA  
9 Identification Fund into which shall be deposited the collected  
10 moneys pursuant to this section. The moneys of the fund shall be  
11 allocated pursuant to subdivision (b).

12 (3) This additional penalty does not apply to the following:

13 (A) Any restitution fine.

14 (B) Any penalty authorized by Section 1464 of the Penal Code  
15 or this chapter.

16 (C) Any parking offense subject to Article 3 (commencing with  
17 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

18 (D) The state surcharge authorized by Section 1465.7 of the  
19 Penal Code.

20 (b) (1) The fund moneys described in subdivision (a), together  
21 with any interest earned thereon, shall be held by the county  
22 treasurer separate from any funds subject to transfer or division  
23 pursuant to Section 1463 of the Penal Code. Deposits to the fund  
24 may continue through and including the 20th year after the initial  
25 calendar year in which the surcharge is collected, or longer if and  
26 as necessary to make payments upon any lease or leaseback  
27 arrangement utilized to finance any of the projects specified herein.

28 (2) On the last day of each calendar quarter of the year specified  
29 in this subdivision, the county treasurer shall transfer fund moneys  
30 in the county's DNA Identification Fund to the State Controller  
31 for credit to the state's DNA Identification Fund, which is hereby  
32 established in the State Treasury, as follows:

33 (A) In the first two calendar years following the effective date  
34 of this section, 70 percent of the amounts collected, including  
35 interest earned thereon;

36 (B) In the third calendar year following the effective date of  
37 this section, 50 percent of the amounts collected, including interest  
38 earned thereon;

1 (C) In the fourth calendar year following the effective date of  
2 this section and in each calendar year thereafter, 25 percent of the  
3 amounts collected, including interest earned thereon.

4 (3) Funds remaining in the county's DNA Identification Fund  
5 shall be used only for the following purposes:

6 (A) To reimburse a local sheriff or other law enforcement agency  
7 to collect DNA specimens, samples, and print impressions pursuant  
8 to this chapter; for expenditures and administrative costs made or  
9 incurred to comply with the requirements of paragraph (5) of  
10 subdivision (b) of Section 298 of the Penal Code including the  
11 procurement of equipment and software integral to confirming  
12 that a person qualifies for entry into the Department of Justice  
13 DNA Database and Data Bank Program.

14 (B) ~~To~~ *If authorized by a resolution of the county board of*  
15 *supervisors, to* reimburse a local sheriff, police, district attorney,  
16 or regional state crime laboratory for expenditures and  
17 administrative costs made or incurred for utilizing a laboratory;  
18 ~~authorized by subdivision (a) of Section 297 of the Penal Code,~~  
19 *that meets state and federal requirements, including the Federal*  
20 *Bureau of Investigation Quality Assurance Standards, and that is*  
21 *accredited by an organization approved by the National DNA*  
22 *Index System Procedures Board* for the processing and analysis  
23 of forensic identification samples and testimony related to that  
24 analysis in order to expedite the analysis of crime scene samples  
25 in order to expedite and proceed with a pending criminal action  
26 or investigation within that county.

27 (C) To reimburse a local sheriff, police, district attorney, or  
28 regional state crime laboratory for expenditures and administrative  
29 costs made or incurred in connection with the processing, analysis,  
30 tracking, and storage of DNA crime scene samples from cases in  
31 which DNA evidence would be useful in identifying or prosecuting  
32 suspects, including the procurement of equipment and software  
33 for the processing, analysis, tracking, and storage of DNA crime  
34 scene samples from unsolved cases.

35 (4) The state's DNA Identification Fund shall be administered  
36 by the Department of Justice. Funds in the state's DNA  
37 Identification Fund, upon appropriation by the Legislature, shall  
38 be used by the Attorney General only to support DNA testing in  
39 the state and to offset the impacts of increased testing and shall be  
40 allocated as follows:

1 (A) Of the amount transferred pursuant to subparagraph (A) of  
2 paragraph (2) of subdivision (b), 90 percent to the Department of  
3 Justice DNA Laboratory, first, to comply with the requirements  
4 of Section 298.3 of the Penal Code and, second, for expenditures  
5 and administrative costs made or incurred in connection with the  
6 processing, analysis, tracking, and storage of DNA specimens and  
7 samples including the procurement of equipment and software for  
8 the processing, analysis, tracking, and storage of DNA samples  
9 and specimens obtained pursuant to the DNA and Forensic  
10 Identification Database and Databank Act, as amended, and 10  
11 percent to the Department of Justice Information Bureau Criminal  
12 History Unit for expenditures and administrative costs that have  
13 been approved by the Chief of the Department of Justice Bureau  
14 of Forensic Services made or incurred to update equipment and  
15 software to facilitate compliance with the requirements of  
16 subdivision (e) of Section 299.5 of the Penal Code.

17 (B) Of the amount transferred pursuant to subparagraph (B) of  
18 paragraph (2) of subdivision (b), funds shall be allocated by the  
19 Department of Justice DNA Laboratory, first, to comply with the  
20 requirements of Section 298.3 of the Penal Code and, second, for  
21 expenditures and administrative costs made or incurred in  
22 connection with the processing, analysis, tracking, and storage of  
23 DNA specimens and samples including the procurement of  
24 equipment and software for the processing, analysis, tracking, and  
25 storage of DNA samples and specimens obtained pursuant to the  
26 DNA and Forensic Identification Database and Databank Act, as  
27 amended.

28 (C) Of the amount transferred pursuant to subparagraph (C) of  
29 paragraph (2) of subdivision (b), funds shall be allocated by the  
30 Department of Justice to the DNA Laboratory to comply with the  
31 requirements of Section 298.3 of the Penal Code and for  
32 expenditures and administrative costs made or incurred in  
33 connection with the processing, analysis, tracking, and storage of  
34 DNA specimens and samples including the procurement of  
35 equipment and software for the processing, analysis, tracking, and  
36 storage of DNA samples and specimens obtained pursuant to the  
37 DNA and Forensic Identification Database and Databank Act, as  
38 amended.

39 (c) On or before April 1 in the year following adoption of this  
40 section, and annually thereafter, the board of supervisors of each

1 county shall submit a report to the Legislature and the Department  
2 of Justice. The report shall include the total amount of fines  
3 collected and allocated pursuant to this section, and the amounts  
4 expended by the county for each program authorized pursuant to  
5 paragraph (3) of subdivision (b) of this section. The Department  
6 of Justice shall make the reports publicly available on the  
7 department's Internet Web site.

8 (d) All requirements imposed on the Department of Justice  
9 pursuant to the DNA Fingerprint, Unsolved Crime and Innocence  
10 Protection Act are contingent upon the availability of funding and  
11 are limited by revenue, on a fiscal year basis, received by the  
12 Department of Justice pursuant to this section and any additional  
13 appropriation approved by the Legislature for purposes related to  
14 implementing this measure.

15 (e) Upon approval of the DNA Fingerprint, Unsolved Crime  
16 and Innocence Protection Act, the Legislature shall loan the  
17 Department of Justice General Fund in the amount of \$7,000,000  
18 for purposes of implementing that act. This loan shall be repaid  
19 with interest calculated at the rate earned by the Pooled Money  
20 Investment Account at the time the loan is made. Principal and  
21 interest on the loan shall be repaid in full no later than four years  
22 from the date the loan was made and shall be repaid from revenue  
23 generated pursuant to this section.

24 (f) Notwithstanding any other provision of law, the Controller  
25 may use the state's DNA Identification Fund, created pursuant to  
26 paragraph (2) of subdivision (b), for loans to the General Fund as  
27 provided in Sections 16310 and 16381. Any such loan shall be  
28 repaid from the General Fund with interest computed at 110 percent  
29 of the Pooled Money Investment Account rate, with the interest  
30 commencing to accrue on the date the loan is made from the fund.  
31 This subdivision does not authorize any transfer that will interfere  
32 with the carrying out of the object for which the state's DNA  
33 Identification Fund was created.

34 SEC. 2. The Legislature finds and declares that this bill furthers,  
35 and is consistent with, the purpose of the DNA Fingerprint,  
36 Unsolved Crime and Innocence Protection Act to enhance the use  
37 of DNA identification evidence for the purpose of accurate and  
38 expeditious crime solving and for exonerating the innocent by

- 1 accelerating the testing of DNA samples that cannot be handled
- 2 in an expeditious manner without the use of an outside laboratory.